



Employment Rights (Dispute Resolution) Act 1998

1998 CHAPTER 8

PART II

OTHER METHODS OF DISPUTE RESOLUTION

Other provisions

11 Settlements of redundancy cases

- (1) In section 18(1) of the Employment Tribunals Act 1996 (which specifies the proceedings in relation to which the provisions about conciliation apply), in paragraph (d) (proceedings under the Employment Rights Act 1996), for “or 92,” substitute “, 92 or 135.”
- (2) In section 166(2) of the Employment Rights Act 1996 (which defines “employer’s payment” for the purposes of the provisions requiring the Secretary of State to make a payment to an employee whose employer is liable to pay him an employer’s payment), after paragraph (a) insert—
 - “(aa) a payment which his employer is liable to make to him under an agreement to refrain from instituting or continuing proceedings for a contravention or alleged contravention of section 135 which has effect by virtue of section 203(2)(e) or (f), or”.
- (3) In section 168(1) of that Act (which specifies the amount which the Secretary of State is required to pay in respect of an employer’s payment), after paragraph (a) insert—
 - “(aa) where the employer’s payment to which the employee’s application under section 166 relates is a payment which his employer is liable to make to him under an agreement having effect by virtue of section 203(2)(e) or (f), is a sum equal to the amount of the employer’s payment or of any redundancy payment which the employer would

Status: This is the original version (as it was originally enacted).

have been liable to pay to the employee but for the agreement, whichever is less, and”.

12 Dismissal procedures agreements

- (1) In section 110 of the Employment Rights Act 1996 (which provides that the statutory right not to be unfairly dismissed does not apply to employees covered by a designated dismissal procedures agreement), for subsection (2) (which provides that the statutory right nevertheless applies in the case of dismissals specified in certain statutory provisions) substitute—

“(2) But if the agreement includes provision that it does not apply to dismissals of particular descriptions, subsection (1) does not apply in relation to a dismissal of any such description.”

- (2) In subsection (3) of that section (which specifies the matters as to which the Secretary of State must be satisfied before designating a dismissal procedures agreement), for paragraph (e) (which requires a dismissal procedures agreement to provide for arbitration or independent adjudication where a decision cannot otherwise be reached) substitute—

“(e) the agreement includes provision either for arbitration in every case or for—

- (i) arbitration where (by reason of equality of votes or for any other reason) a decision under the agreement cannot otherwise be reached, and
- (ii) a right to submit to arbitration any question of law arising out of such a decision, and”.

- (3) After subsection (5) of that section insert—

“(6) Where an award is made under a designated dismissal procedures agreement—

- (a) in England and Wales it may be enforced, by leave of a county court, in the same manner as a judgment of the court to the same effect and, where leave is given, judgment may be entered in terms of the award, and
- (b) in Scotland it may be recorded for execution in the Books of Council and Session and shall be enforceable accordingly.”

- (4) In section 184 of that Act (which specifies the debts which the Secretary of State must satisfy if an employer has become insolvent), in subsection (1)(d) (which specifies a basic award of compensation for unfair dismissal payable by the employer), after “dismissal” insert “or so much of an award under a designated dismissal procedures agreement as does not exceed any basic award of compensation for unfair dismissal to which the employee would be entitled but for the agreement”.

- (5) The amendments made by subsections (1) and (2) do not affect any dismissal procedures agreement designated by the Secretary of State before those subsections come into force.